



LATE

HB1165 HD1
RELATING TO GENDER IDENTIFICATION
Ke Kōmike Ho'okolokolo

Pepeluali 26, 2019

2:05 p.m.

Lumi 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1165 HD1, which would add a third, gender-neutral marker to Hawai'i driver's licenses, providing meaningful accommodation for gender non-binary individuals, and reducing the risks of invasive questioning, discrimination, harassment, and even violence that transgender, gender non-binary, and gender non-conforming individuals may face when identified as a particular gender on their state identification.

Transgender, gender non-binary, and gender non-conforming people have deep roots in traditional Hawaiian society, and remain a significant but often unacknowledged part of Hawai'i's community today. Hawaiian culture has a rich history of gender diversity and acceptance of those who would now be considered transgender, gender non-binary, or gender non-conforming. In pre-colonial Hawaiian culture and society, aikāne and māhū were revered and maintained special roles in society and in certain cultural practices.¹ Currently, Hawai'i ranks first in the nation with the highest proportion of its population composed of transgender adults,² and three percent of Hawai'i's high-school-aged youth identify as transgender.³ Native Hawaiians are also strongly represented among this young transgender population, representing 25% percent of our transgender youth.⁴ Unfortunately, our community does not meaningfully acknowledge and accommodate our transgender, gender non-binary, and gender non-conforming communities, resulting in various forms of systemic and invidious discrimination not reflective of Hawai'i's cultural history and traditional values.

Government forms of identification, such as driver's licenses, that mandate binary gender markers can have a great impact on transgender, gender non-binary, and gender non-conforming peoples' safety and emotional well-being. For example, a driver's license

¹ See, e.g., Noenoe Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*. (2004); Lilikalā Kame'eleihiwa, *Le'ale'a o na Kupuna: Traditional Hawaiian Sexuality*, Ke Ola Mamo Conference (1999); and Keith Bettinger, *Historically Speaking: A quick look at homosexuality and gender roles in pre-contact Hawai'i*, HONOLULU WEEKLY (Jun. 20-26, 2007).

² WILLIAMS INSTITUTE, *HOW MANY ADULTS IDENTIFY AS TRANSGENDER IN THE UNITED STATES?* 3 (2016).

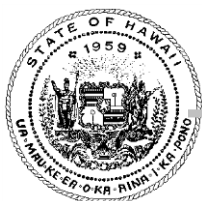
³ HAWAII STATE DEPARTMENT OF HEALTH, *HAWAII SEXUAL AND GENDER MINORITY HEALTH REPORT 2018: A FOCUS ON TRANSGENDER YOUTH*, 24 (2018) available at <https://health.hawaii.gov/surveillance/files/2018/09/HawaiiSexualandGenderMinorityHealthReport2018.pdf>.

⁴ *Id.*

showing a binary gender may “out” such individuals in any situation requiring proof of identity; as a result, routine activities like travelling, applying for a job or a school, entering public establishments, or attempting to obtain benefits can be anxiety-inducing ordeals for these individuals. Identification documents that do not match a person’s lived gender can expose them to negative attention in a variety of forms, including invasive questioning; verbal harassment and physical violence; unnecessary scrutiny by law enforcement; and discrimination in housing, employment, healthcare, and public benefits.

A gender-neutral marker on state drivers’ licenses will free gender non-binary individuals, such as māhū, as well as transgender and gender non-conforming individuals from having to compromise their personal and cultural identities and mitigate the prejudicial treatment and harms they may otherwise face. We understand that **the State Commission on the Status of Women, in its testimony, has recommended several amendments to ensure that the laudable changes proposed by this measure will be more broadly available to the members of our transgender, gender non-binary, and gender non-conforming community; sensitive to their needs; and compliant with the Federal Real ID Act.** We urge the committee to consider the Commission’s suggestions.

Therefore, OHA urges the Committee to **PASS** HB1165 HD1. Mahalo nui loa for the opportunity to testify on this important measure.



HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 26, 2019
Rm. 325, 2:05 p.m.

To: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Members of the House Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: H.B. No. 1165, H.D. 1

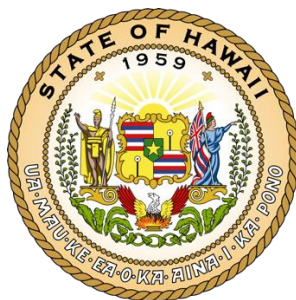
The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai'i's laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights.

The HCRC supports H.B. No. 1165, H.D. 1, which would require a third option for gender identification for driver's licenses and state identification cards.

Expanding gender options on government identification will aid in nondiscrimination against transgender and non-binary individuals.

HCRC is cognizant that identification document must conform the REAL ID Act, and urges any modifications that will allow compliance with federal law, and allow individuals to self-identify their gender option.

It is important to support inclusiveness, and HCRC supports H.B. No. 1165, H.D. 1.



‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
Hawai‘i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the House Committee on Judiciary

In Support of HB1165 HD1
Tuesday, February 26, 2019, at 2:05 p.m. in Room 325

Dear Chair Lee, Vice Chair San Buenaventura, and Honorable Members,

The Hawai‘i State Commission on the Status of Women **supports** HB1165 HD1, which would require a third option of gender identification for driver's license and state identification card applicants. Hawai‘i has the largest percentage of transgender individuals in the United States. Binary gender and sex markers on state driver's licenses cause difficulty and invasive questioning in everyday transactions for this community. Indeed, sex and gender markers **increase the likelihood of discrimination** for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

Sex and gender are distinct concepts although the state uses the terms inconsistently, and often interchangeably which exacerbates mythological binaries. For example, the federal REAL ID Act requires that state driver's licenses mark “the person's gender.” At present, Hawai‘i's regular driver's license is technically non-compliant with the REAL ID Act because lists “sex.” Sex implies chromosomes and particular body parts relevant to reproduction. Gender is the story that a society tells about sex differences. These stories are currently “steeped in stereotypes of female inferiority,” and so deeply ingrained that we experience them as if they are unchangeable and biological.¹ Gender (expectations and stereotypes) is at the heart of sexism and the subordinate status of women and all people who exhibit a feminine rather than typically masculine appearance or demeanor. In most states, non-binary genders are not legally recognized.

HB1165 would align our identification documents with the reality that gender is a mutable, performative characteristic that is personally changeable at any time. All people may present themselves

¹ Fogg Davis, H., *Beyond Trans Does Gender Matter?*, 2017.

at any time in a way that associates them with the “wrong” sex or gender, and can be misgendered by state administrators such as law enforcement.

The Commission is informed that total elimination of gender from this specific license category would run afoul of the federal REAL ID Act. The state’s other license category, the limited purpose driver’s license, exists outside of the purview of REAL ID and can be amended to eliminate a gender designation entirely. Accordingly, the Commission asks that the Committee pass this HB1165 HD1 with the following suggested amendments:

SECTION 2. Section 286-109, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of:

(1) The person's full legal name, date of birth, gender ~~category~~ designation, residence address, and license number;

~~[(1)]~~ (2) The category or categories of motor vehicles the applicant may operate;

~~[(2)]~~ (3) Any restrictive provisions to which the license is subject;

~~[(3)]~~ (4) Veteran status, if desired by the applicant; provided that the notation shall be on the front of the license and shall not include any designation other than the term "veteran"; and

~~[(4)]~~ (5) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

As used in this subsection~~[(7)]~~:

"Gender ~~category~~ designation" includes the options of ~~female,~~ male, or non-binary F, M, or X.

~~["veteran"]~~ "Veteran" means any person who served in any of the uniformed services of the United States, including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens, and was discharged under conditions other than dishonorable."

SECTION 3. Section 286-111, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Every application shall state the full name, date of birth, ~~[sex,]~~ gender category designation, occupation, veteran status if applicable (including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens) and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.

The department of transportation shall not require documentation for an applicant's selection of gender category designation or an applicant's request for an amendment to a gender category designation other than the applicant's self-certification of their chosen gender

category designation; provided that the department shall not be prohibited from requiring documentation that may incidentally show an applicant's birth gender sex category if such documentation is necessary to establish that the applicant is legally entitled to a license.

For purpose of this subsection, "gender-category designation " shall have the same meaning as in section 286-109(a)."

SECTION 4. Section 286-303, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every application for an identification card or duplicate of an identification card shall be made on a form developed by the director and furnished by the examiner of drivers, signed by the applicant, and signed by the applicant's parent or guardian if the applicant is under eighteen years of age. The application shall contain the following information:

(1) Name and complete address, including the number and street name, of the applicant's permanent residence;

(2) The applicant's occupation and any pertinent data relating thereto;

(3) The applicant's citizenship status;

(4) The applicant's veteran status if applicable and desired by the applicant;

(5) The applicant's date and place of birth;

(6) General description of the applicant, including the applicant's gender[~~r~~] category designation, height, weight, hair color, and eye color;

(7) The applicant's left and right index fingerprints or, if clear impressions cannot be obtained, other identifying imprints as specified by rules of the director;

- (8) The social security number of the applicant; and
- (9) A digitized frontal photograph of the applicant's full face.

Each applicant shall present documentary evidence as required by the examiner of drivers of the applicant's age and identity, and the applicant shall swear or affirm that all information given is true and correct[-]; provided that an applicant shall not be required to provide documentation to prove the applicant's category designation other than the applicant's self-certification of their chosen gender category; provided further that documentation that may incidentally show an applicant's birth gender may be required if necessary to establish that the applicant is legally entitled to an identification card.

For purposes of this subsection, "gender category" shall have the same meaning as in section 286-109(a)."

SECTION 5. Section 286-104.5, Hawaii Revised Statutes, is amended by adding subsection (j) to read as follows:

"[f]§286-104.5[f] Limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permits.

. . .

(j) No limited purpose driver's license or limited purpose provisional driver's license issued pursuant to this section shall bear any gender or sex marker."

Sincerely,

Khara Jabola-Carolus



February 22, 2019

House's Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, HI 96813

Hearing: Tuesday, February 26, 2019 – 2:05 p.m.

RE: **STRONG SUPPORT for House Bill 1165 HD 1– RELATING TO GENDER IDENTIFICATION**

Aloha Chair Aquino, Vice Chair Hashimoto and fellow committee members,

I am writing in STRONG SUPPORT for House Bill 1165 HD 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 1165 HD 1 excludes gender or sex markers from limited purpose driver's licenses and limited purpose provisional driver's licenses.

HB 1165 HD 1 is one of the priorities for the LGBT Caucus and is a continuation of the work we have done to help ensure all are treated equally and fairly. The idea of gender binary is a fallacy and this bill will help correct this misconception. Gender identity is a spectrum and people fall somewhere along it, from female to agender to male. This needs to be reflected on those do not identify as strictly female or male on their provisional driver's licenses.

For the State of Hawaii to require everyone to pick either female or male on their driver's license or state ID is requiring them to lie. By passing this bill you will be making Hawaii more accepting of our fellow 'ohana members that do not adhere to the gender binary. To understand more about our non-binary 'ohana we encourage you to read ["Understanding Non-Binary People" from the National Center for Transgender Equality.](#)

Currently 3 other states (California, Minnesota & Oregon) and the District of Columbia have a variation of this law. The LGBT Caucus of the Democratic Party of Hawaii asks that you pass HB 1165 HD 1 to help make Hawaii a more inclusive state for all.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair

National Center for Transgender Equality
FAQ: GENDER-NEUTRAL IDS What is a gender-neutral ID?

A gender-neutral ID displays an alternate marker that is not an “M” (male) or “F” (female) to fill the sex or gender field of the ID. The gender-neutral marker is typically an “X” marker which stands for “Undisclosed” or “Other.”

Why are gender-neutral IDs important?

Many people have a gender identity that is not male or female and may use terms like “non-binary” to describe their gender identity. A gender-neutral ID allows them to display a more accurate gender marker on their ID. A gender-neutral ID also allows people of any gender to have increased privacy around gender on their state ID.

Do I have to identify as non-binary to get a gender-neutral ID?

No. People of any gender may choose not to disclose their gender on their ID by opting for a gender-neutral marker.

If I am a transgender man or transgender woman, do I have to get a gender-neutral ID?

No. The gender-neutral option “X” is in addition to the options of “M” or “F.” A transgender woman can still change the gender marker on her ID to “F” and a transgender man can still have “M” on his ID.

Do I need a provider to certify my request for a gender-neutral ID?

No. Current states with gender-neutral options allow all applicants to determine the gender marker that is most appropriate for them and no longer require documentation from a medical or mental health provider. This allows people who may have limited access to medical providers to get appropriate ID, and also allows people who seek to have an “X” gender marker for privacy reasons to do so.

What if my gender-neutral ID does not match the gender marker on my other IDs and documents?

If you have different gender markers listed on various IDs or records, it may cause confusion or raise eyebrows when interacting with officials or applying for services. However, legally speaking, it is not a problem to have records and IDs with different gender markers, and officials should still be able to verify your identity.

Can I use my gender-neutral ID to travel and go through TSA or airport security?

TSA does not yet have an official policy on how they process IDs with gender neutral markers, despite the fact that various other countries issue IDs with “X” designations. Airlines are required to collect name and gender information and submit it to TSA before each flight, and airlines currently only have M or F options. It is ideal to bring an ID to fly that has a gender marker that matches the gender you submitted to the airline. However, if you don't have an ID with a gender marker that matches what you submitted to the airline you can likely still get through security, though you may receive additional scrutiny or questioning.

Will my ID be compliant with federal and international laws?

Yes. The REAL ID Act requires states to list a gender on licenses, but the Department of Homeland Security explicitly states that they “leave the determination of gender up to the States [...]” An X gender marker is consistent with the practice of the International Civil Aviation Association (ICAO), an agency of the United Nations, which uses an internationally-recognized passport format that allows for M, F, or X gender markers.



of Hawaii

February 25, 2019

From: Hannah Liebreich, Public Policy Committee, AAUW Hawaii
Younghee Overly, Public Policy Chair, AAUW Hawaii

To: Hawaii State House Committee on Judiciary
Hearing Date/Time: February 26, 2019 2:05 PM
Place: Hawaii State Capitol, Rm. 325
Re: Testimony in SUPPORT of HB1165 HD1

Dear Chair Lee, Vice Chair San Buenaventura, and Members of the Committee,

Thank you for this opportunity to submit testimony in support of HB1165 HD1 with a request for an amendment. HB1165 HD1 would require a third option of gender identification for driver's license and state identification card applicants. Please amend this measure to make sure that this bill would cover both the "no limited purpose driver's license" as well as "limited purpose provisional driver's license." Hawai'i has the largest percentage of transgender individuals in the United States. In fact, mahu, or transgender individuals, were viewed by the ancient Hawaiians as a normal element of the social culture. Mahu were not merely tolerated; they were regarded as a legitimate and contributory part of the ancient Polynesian community. (Source: <https://www.ncbi.nlm.nih.gov/pubmed/26966855>)

Binary gender and sex markers on state driver's licenses cause difficulty and invasive questioning in everyday transactions for the transgender and gender non-conforming community. Indeed, sex and gender markers increase the likelihood of discrimination for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

Please pass this measure with amendments as it could reduce discrimination and violence against transgender and gender non-conforming people. Mahalo for your consideration.

Sincerely,

Hannah Liebreich

HB-1165-HD-1

Submitted on: 2/22/2019 4:45:02 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Darlene Ewan	Aloha State Association of the Deaf	Support	No

Comments:



Hawai'i

LATE

Committees: House Committee on Judiciary
Hearing Date/Time: Tuesday, February 26, 2019, 2:05 p.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 1165, H.D. 1, Relating to Gender Identification

Dear Chair Lee, Vice Chair San Buenaventura, and members of the Committee on Judiciary,

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of H.B. 1165, H.D. 1**, which would offer a third gender designation option on state driver's licenses and state identification cards. This change will provide accurate identification documents to affirm individuals' gender identity and help prevent discrimination and harassment of transgender and non-binary people.

According to the Williams Institute, Hawai'i has the highest percentage of its population identifying as transgender in the nation. In 2016, the National Center for Transgender Equality released its 2nd U.S. Transgender Survey, which included the experiences of almost 28,000 respondents.¹ Only 11% of respondents reported that *all* of their IDs had the name and gender they preferred, and 68% reported that *none* of their IDs matched the name and gender that they preferred. We applaud the legislature for recognizing that this current state of affairs is unacceptable and introducing and moving this legislation to remedy it.

Hawaii's current driver's licenses and state identification cards do not recognize non-binary people, who self-identify as neither male nor female, both male and female, or something else. Approximately 31% of respondents to the U.S. Transgender Survey identified as non-binary. For these individuals, neither an "M" nor an "F" gender marker accurately reflects their gender identity. Offering a third option will provide a more accurate gender designation for these individuals, as well as a privacy option for those who do not wish to disclose their gender.


The ACLU of Hawai'i supports this measure, but respectfully requests the following amendment:

1. Page 3, Line 14
 - "Gender category" includes the ~~options~~ **designations** of **F, M, or X** ~~female, male, or non-binary.~~
2. Page 4, Line 20

¹ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

- The department of transportation shall not require documentation for an applicant's selection of gender category or ~~an applicant's request for an amendment to a gender category other than the applicant's self-certification of their chosen gender category,~~ **regardless of the sex or gender category displayed on any other documentation submitted.** ~~provided that the department shall not be prohibited from requiring documentation that may incidentally show an applicant's birth gender category if such documentation is necessary to establish that the applicant is legally entitled to a license~~

Thank you for the opportunity to testify.

Sincerely,

Mandy Fernandes
Policy Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

HB-1165-HD-1

Submitted on: 2/25/2019 1:53:28 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

To: Hawaii State House of Representatives Committee on Judiciary
Hearing Date/Time: Tues., Feb. 26, 2019, 2:05 p.m.
Place: Hawaii State Capitol, Rm. 325
Re: Testimony in strong support of H.B. 1165, HD1, relating to Gender Identification

Dear Chair Lee and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in support of H.B. 1165, HD1, which seeks to include a gender category option of non-binary to license and state identification cards.

LGBTQI+ rights and reproductive rights are deeply connected to justice for all. We have long stood with our LGBTQI+ allies in the struggle for full equality — many of whom turn to Planned Parenthood for health care, information, and education. We are committed to building a world where no one experiences discrimination or violence because of their gender identity, gender expression, or sexual orientation.

We support H.B. 1165, HD1, because it seeks to address the unnecessary and oftentimes dangerous and traumatic gender markers on licenses by adding a category option of non-binary. For those whose marker doesn’t match their gender identity or expression, gender markers can make them a target for discrimination and harm. H.B. 1165 will take a step towards protecting all the members of our community, regardless of gender identity or expression, from injustice.

Thank you for this opportunity to testify in support of this important measure.

Sincerely,

Laurie Field
Hawaii State Director



House Committee on Judiciary
325 State Capitol Building
415 S Beretania Street
Honolulu, Hawaii 96813

February 26, 2019

Re: SUPPORT for H.B. 1165, Testimony from the Human Rights Campaign in support of the bill to allow for a non-binary gender marker option on drivers licenses

Dear Chairperson Lee and Members of the Committee:

The Human Rights Campaign (HRC), on behalf of its more than three million members and supporters nationwide, including nearly 22,000 members and supporters in Hawaii, thanks you for the opportunity to submit testimony on H.B. 1165, an important measure that will allow non-binary individuals to have their identity accurately represented on their driver's license or state-issued identification card. We urge you to swiftly pass this important legislation.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ citizens and realize a nation that achieves fundamental fairness and equality for all. As an advocate for LGBTQ individuals, HRC believes that transgender, gender non-conforming, and non-binary individuals deserve the equal dignity and respect of having their true identities recognized by their states.

Non-binary people include those who do not identify exclusively as male or female. Non-binary individuals may identify as being both masculine and feminine, somewhere in between, or as falling completely outside of these categories. Importantly, while many non-binary individuals also identify as transgender,¹ not all non-binary people do. Recent studies have shed light on the significant number of people who identify as non-binary. Out of the 28,000 transgender adult participants of the 2015 U.S. Transgender Survey, 47% identified as having more than one gender or no gender.² Even more notable, a 2017 Harris Poll survey found that 10% of LGBTQ and non-LGBTQ respondents 18 to 34 years old identify with a gender other than strictly female or strictly male.³ In light of this recent data and increased understanding of the full spectrum of

¹ According to a 2016 study by the Williams Institute, Hawaii has the highest percentage of transgender-identifying individuals in the United States. See Williams Institute, *How Many Adults Identify as Transgender in the United States?* (June 2016).

² S.E. James, et al., *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality, 60 (2016). [hereafter *Transgender Survey*].

³ Harris Poll, *GLAAD: Accelerating Acceptance 2017*, 4 (2017), https://www.glaad.org/files/aa/2017_GLAAD_Accelerating_Acceptance.pdf.

gender and gender identity, a number of states have taken laudable steps to recognize the true gender of residents on state-issued identity documents. To date, six states—Oregon, California, Colorado, Arkansas, Minnesota, and Maine—plus the District of Columbia allow a non-binary gender marker option on state-issued driver's licenses.

Unfortunately, non-binary individuals face disproportionate rates of discrimination, harassment, and violence. According to a recent report published by the LGBTQ Policy Journal at the Harvard Kennedy School, around a third of non-binary respondents experienced police harassment, were physically assaulted, and postponed seeking medical care out of fear of discrimination.⁴ This risk of harm is significantly exacerbated when non-binary people are forced to present incongruent legal documents that do not accurately reflect who they are.

Additionally, the dignitary and psychological harm that many non-binary people experience on a daily basis through misgendering cannot be overstated. Misgendering occurs when an individual is seen or referred to as a gender with which they do not identify. Consistent misgendering erases a person's gender identity and causes real psychological harm. A survey of non-binary and transgender individuals found that over a third of respondents felt very stigmatized when they were misgendered, which lead to increased feelings of hostility and anxiety and a lower sense of self-esteem and authenticity.⁵

Current state law only allows for gender markers on driver's licenses that indicate "male" or "female." This forces many non-binary individuals to select a gender marker that does not accurately reflect their identity, which both negatively impacts their mental health and exposes them to potential harassment and violence. H.B. 1165 would allow the Hawaii Department of Transportation to recognize a third gender marker option on driver's licenses without requiring documentation of the applicant's selection of gender category—a significant step toward acknowledging the existence of non-binary residents, affirming their value in the community, and protecting their safety and wellbeing.

Thank you for the opportunity to submit testimony in favor of this critical bill to affirm and protect non-binary individuals.

Sincerely,

A handwritten signature in black ink that reads "Sarah Warbelow". The signature is written in a cursive, flowing style.

Sarah Warbelow
Legal Director

⁴ J. Harrison, et al., *A Gender Not Listed Here: Genderqueers, Gender Rebels, and OtherWise in the National Transgender Discrimination Survey*, 2 LGBTQ Policy Journal at the Harvard Kennedy School 13, (2012).

⁵ K.A. McLemore, *Experiences with Misgendering: Identity Misclassification of Transgender Spectrum Individuals*, 14 Self and Identity 1, 51-74 (2015).

Human Rights Campaign

HB-1165-HD-1

Submitted on: 2/25/2019 12:50:32 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jen Jenkins	Individual	Support	Yes

Comments:

Dear Chair Lee, Vice Chair San Buenaventura, and Honorable Members,

I write in **strong support of** HB1165 SD1 with amendments, which would add an X gender neutral marker to regular driver's licenses and remove gender markers from limited purpose driver's licenses. Sex and gender markers **increase the likelihood of discrimination** for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

The passage of this bill would protect the transgender community in Hawai'i, the largest of any state.

Respectfully,

Jenifer Jenkins

HB-1165-HD-1

Submitted on: 2/23/2019 10:05:07 AM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Individual	Support	No

Comments:

Dear Chair Lee, Vice-Chair San Buenaventura, and members of House Committee on Judiciary,

Thank you for this opportunity to submit a testimony in support of HB1165 HD1, which would require a third option of gender identification for driver's license and state identification card applicants.

Hawai'i has the largest percentage of transgender individuals in the United States. In fact, mahu, or transgendered individuals and transvestites, were viewed by the ancient Hawaiians as a normal element of the old social culture. Mahu were not merely tolerated; they were regarded as a legitimate and contributory part of the ancient Polynesian community. (Source: ["RaeRae and Mahu: third polynesian gender", NIH](#))

Binary gender and sex markers on state driver's licenses cause difficulty and invasive questioning in everyday transactions for this community. Indeed, sex and gender markers increase the likelihood of discrimination for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

Please pass this measure for it could reduce discrimination and violence against transgender and gender non-conforming people. Mahalo for your consideration.

HB-1165-HD-1

Submitted on: 2/23/2019 8:21:36 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments:

I strongly support HB1165 HD1 and urge you to pass this bill.

HB-1165-HD-1

Submitted on: 2/23/2019 9:56:08 PM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Brian McGee	Individual	Support	No

Comments:

I applaud this progressive and important bill that allows for non-binary and gender choice identification. This is a landmark bill that will help destigmatize gender non-conforming individuals and allow for individual expression. Thank you!

Mike McGee

LATE

HB-1165-HD-1

Submitted on: 2/26/2019 8:24:49 AM

Testimony for JUD on 2/26/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noelle Wright	Individual	Support	No

Comments: